

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE GAS)	
AND ELECTRIC COMPANY FOR AN)	CASE NO.
ADJUSTMENT OF ITS ELECTRIC AND GAS)	2016-00371
RATES AND FOR CERTIFICATES OF PUBLIC)	
CONVENIENCE AND NECESSITY)	

ORDER

This matter arises from motions requesting confidential treatment, pursuant to KRS 61.878(1) and 807 KAR 5:001, Section 13, filed by Louisville Gas and Electric Company (LGE&E) on November 23, 2016; December 8, 2016; January 25, 2017; and January 26, 2017.

In the November 23, 2016 motion, LG&E requested confidential treatment for five years for information contained in its application at Tab 16 and Tab 45, and the Direct Testimony of Robert M. Conroy, which consists of sales and generation forecasts that identify specific customers; and Tab 60, which consists of employee compensation information, other than compensation information for executives that is publicly disclosed. As a basis for its request, LG&E states that the identification of specific customers and employee compensation is personal information that is exempt from public disclosure pursuant to KRS 61.878(1)(a) and (c).

In the January 8, 2016 motion, LG&E requested confidential treatment for five years for its responses to Commission Staff's First Request for Information, Items 36, 37, 48(a)(9), and 50, which consist of employee compensation, other than the compensation

of executives that is publicly disclosed, which LG&E contends is exempt from public disclosure pursuant to KRS 61.878(1)(a); federal and state tax-related documents, which LG&E contends is exempt from public disclosure pursuant to KRS 61.878(1)(k); forecasted merit increases for union and other employees, for which the negotiations have not been completed, which LG&E contends is exempt from public disclosure pursuant to KRS 61.878(1)(c)(1); and compensation policies, schedules, and agreements with third-party vendors, for which LG&E contends that public disclosure would result in an unfair commercial advantage and thus is exempt from public disclosure pursuant to KRS 61.878(1)(c)(1).

In the January 25, 2016 motion, LG&E requested confidential treatment for the following materials:

- Responses to Commission Staff's Second Request for Information, items 8, 38(b), 63(g), 64(a), and 73, which consist of LG&E's confidential communications with specific customers, business plans with projections and assumptions from third-party vendors, contractual pricing, proposed future pipeline routes, and critical infrastructure systems. LG&E requests the designated materials be held confidential for five years, with the exception of the designated materials pertaining to critical infrastructure systems, which LG&E requests be held confidential for an indefinite period.

- Responses to the Attorney General's First Request for Information, Items 67, 81, 90, 94, 111(d), 112, 133, 134, 135, 259(b)-(d), 261(c)-(e), 264, 293, 315, 325, 384(a), 385(a), 386(c) and (d), 390, 391, 392(a), 393(a), 418, and 437. The designated materials consist of federal and state tax-related documents, non-rate case legal expenses, confidential and proprietary third-party documents, the board of directors'

minutes containing assumptions regarding pricing information, confidential settlements of damage claims, competitive bids for new software systems, non-executive employee compensation, and critical infrastructure systems. LG&E requests the designated materials be held confidential for a period of five years, with the exception of the critical infrastructure systems materials, which LG&E requests be held confidential for an indefinite period.

- Responses to the Kentucky Cable Telecommunications Association's First Request for Information, Items 1(b) and 28, third-party agreements regarding pole attachments, and the location of critical infrastructure systems. LG&E requests the designated materials be held confidential for five years, with the exception of the critical infrastructure systems materials, which LG&E requests be held confidential for an indefinite period.

- Responses to AT&T Kentucky's First Request for Information, Item 3, third-party agreements for pole attachments. LG&E requests the designated materials be held confidential for five years.

- Responses to Kentucky Industrial Utility Customers, Inc.'s First Request for Information, item 9, which consists of strategies for future growth and projects. LG&E requests the designated materials be held confidential for five years.

As a basis for the January 25, 2017 motion, LG&E contends that the designated materials are exempt from public disclosure pursuant to KRS 61.878(1)(a), which exempts public disclosure of information of a personal nature that, if publicly disclosed, would constitute an unwarranted invasion of personal privacy, KRS 61.878(1)(c)(1), which exempts materials that if openly disclosed would permit an unfair commercial advantage;

KRS 61.878(1)(k), which exempts from public disclosure federal and state tax documents; and KRS 61.878(m)(1), which exempts from public disclosure records regarding critical infrastructure systems that, if publicly disclosed, would have a reasonable likelihood of threatening public safety by exposing a vulnerability in preventing, mitigating, or responding to a terrorist act.

Finally, in its January 26, 2017 motion, LG&E requests confidential treatment for its response to Louisville/Jefferson County Metro Government's First Request for Information, Item 3(a), for an indefinite period. The designated materials consist of LG&E's planned maintenance schedule for generating units. LG&E contends that public disclosure of the designated materials would permit an unfair commercial advantage because potential suppliers would know when the generating plants will be down for maintenance, which could result in suppliers manipulating the price of power bid in order to maximize suppliers' revenue, which, in turn, could cause higher prices to LG&E and to its customers.

In the November 23, 2016; December 8, 2016; January 25, 2017; and January 26, 2017 motions, LG&E asserted that the Commission previously granted confidential protection to the same or similar information in previous cases.¹

Having carefully considered the motions and the materials at issue, the Commission finds that the designated materials in the November 23, 2016; December 8, 2016; January 25, 2017; and January 26, 2017 motions meet the criteria for confidential

¹ Case No. 2012-00221, *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates* (Ky. PSC July 25, 2013); Case No. 2012-00222, *Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, a Certificate of Public Convenience and necessity, Approval of Ownership of Gas Service Lines and Risers, and a Gas Line Surcharge* (Ky. PSC July 16, 2013); Case No. 2014-00372, *Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates* (KY. PSC Jan. 14, 2016).

treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(a), KRS 61.878(1)(c)(1), KRS 61.878(1)(k), KRS 61.878(m)(1), and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. LG&E's November 23, 2016; December 8, 2016; January 25, 2017; and January 26, 2017 motions for confidential treatment are granted.

2. The designated materials for which LG&E seeks confidential treatment shall not be placed in the public record or made available for public inspection for five years, with the exception of the designated materials pertaining to critical infrastructure systems, or until further Orders of this Commission.

3. The designated materials pertaining to critical infrastructure systems shall not be placed in the public record or made available for public inspection for an indefinite period, or until further Orders of this Commission.

4. Use of the materials in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

5. LG&E shall inform the Commission if the materials in question become publicly available or no longer qualify for confidential treatment.

6. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not run, then LG&E shall have 20 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If LG&E is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

7. The Commission shall not make the requested materials available for inspection for 20 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow LG&E to seek a remedy afforded by law.

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By the Commission

ENTERED
DEC 10 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2016-00371

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